

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

SUSAN HANNA

§

v.

§

CIVIL ACTION NO. 6:07cv202

COMMISSIONER, SSA

§

ORDER ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE


The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation recommends that the complaint be dismissed with prejudice pursuant to Fed.R.Civ.P. 12(b)(6) because it was not timely filed. Plaintiff filed written objections to the Report and Recommendation on September 11, 2007.

Having made a *de novo* review of the objections filed by Plaintiff, the Court finds that the findings, conclusions and recommendation of the Magistrate Judge are correct and the objections are without merit. Plaintiff's objections and attached documents do not show that she filed this case within sixty days after the mailing of the Commissioner's notice of decision or that there are any grounds for equitable tolling. Plaintiff did not file the present lawsuit until April 30, 2007. According to the Motion to Dismiss, the Appeals Council mailed notice of its decision to Plaintiff on January 29, 2007. The documents submitted by Plaintiff with her written objections are all dated prior to that date. The findings and conclusions of the Magistrate Judge are therefore adopted as those of the Court.

In light of the foregoing, it is

ORDERED that the complaint is hereby **DISMISSED** with prejudice. Any motion not previously ruled on is **DENIED**.

SIGNED this 17th day of September, 2007.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE